

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

<b>ROBERT LEE HOOD,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>1:12CV729</b>
	)	
<b>OFFICER GENTRY, et al.,</b>	)	
	)	
<b>Defendant(s).</b>	)	

**ORDER AND RECOMMENDATION**  
**OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff, a prisoner of the State of North Carolina, has submitted a civil rights action pursuant to 42 U.S.C. § 1983, together with an application to proceed *in forma pauperis*. The form of the Complaint is such that serious flaws make it impossible to further process the Complaint. The problem is:

1. Pursuant to the Prison Litigation Reform Act, Plaintiff may no longer proceed *in forma pauperis* in this Court unless he is under imminent danger of serious physical injury. The Act provides that:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). In the Complaint, Plaintiff admits that he has had 4 cases dismissed for being frivolous (Docket Entry 2, § II(B)(1)). Further,

this Court has been able to independently locate three such cases in the Eastern District of North Carolina: Hood v. Hill, No. 5:94-ct-100-H (E.D.N.C. Mar. 2, 1994) (Docket Entries 3 and 4, unpublished order and judgment dismissing case as frivolous), Hood v. Hill, No. 5:94-ct-86-BO (E.D.N.C. Mar. 15, 1994) (Docket Entries 4 and 5, unpublished order and judgment dismissing case as frivolous), and Hood v. Beck, No. 5:04-ct-312-BO (E.D.N.C. May 14 and 17, 2004) (Docket Entries 4 and 5, unpublished order and judgment dismissing case as frivolous). Plaintiff has not made any allegation that he faces imminent danger of serious physical injury. Therefore, he is not entitled to proceed *in forma pauperis*, but may pay the entire \$350.00 filing fee.

Consequently, this particular Complaint should be dismissed, but without prejudice to Plaintiff filing a new complaint accompanied by the \$350.00 filing fee. To further aid Plaintiff, the Clerk is instructed to send Plaintiff new § 1983 forms and a copy of pertinent parts of Fed. R. Civ. P. 8 (*i.e.*, Sections (a) & (d)).

*In forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation.

**IT IS THEREFORE ORDERED** that *in forma pauperis* status is granted for the sole purpose of entering this Order and Recommendation. The Clerk is instructed to send Plaintiff § 1983 forms, instructions, and a copy of pertinent parts of Fed. R. Civ. P. 8 (*i.e.*, Sections (a) & (d)).

**IT IS RECOMMENDED** that this action be filed and dismissed *sua sponte* without prejudice to Plaintiff filing a new complaint accompanied by the \$350.00 filing fee.

\_\_\_\_\_  
/s/ L. Patrick Auld  
**L. Patrick Auld**  
**United States Magistrate Judge**

Date: July 19, 2012